

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs : 23978 of 2002 AND 13330 of 2004

W.P.NO.23978 OF 2002.

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Between:

1.APSRTC,Mushirabad, Hyderabad, rep. by
its Managing Director.

2.The Deputy Chief Traffic Manager, APSRTC
Nizamabad.

3.Depot Manager, APSRTC,. Bodhan Depot,
Nizamabad District.

..... PETITIONERS

AND

1 Mohd. Fasiuddin, E. 40624, Ex-Conductor
of APSRTC Bus Depot, Nizamabad,
H.No. 9-12-134/1, Ahmedpura Colony, Nizamabad.

2 Labour Court-II, Hyderabad,
rep. by its Presiding Officer.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, especially in the nature of a Writ of Certiorari, calling for the records relating to the impugned Order dt. 13-6-2002 made in I. D.No. 191/99, Labour Court-II, Hyderabad published on 9-8-2002 setting aside the order of removal dated 7-9-1999 and directing reinstatement of 1st respondent into service with continuity of service and full backwages and quash the same as being illegal, without jurisdiction and invalid.,

Counsel for the Petitioners: MR.V.T.M.PRASAD, STANDING COUNSEL FOR APSRTC

Counsel for the Respondent No.1: MR.K.VASUDEVA REDDY

Counsel for the Respondent No.2: GP FOR LABOUR

W.P.NO.13330 OF 2004

Between:

The Depot Manager, APSRTC,
Bodhan, Nizamabad District.

..... PETITIONER

AND

1 Mohd. Fasiuddin, E. 40624, Ex-Conductor
of APSRTC Bus Depot, Nizamabad,
H.No. 9-12-134/1, Ahmedpura Colony, Nizamabad.

2 Labour Court-II, Hyderabad,
rep. by its Presiding Officer.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, especially in the nature of a Writ of Certiorari, calling for the records relating to the impugned Order dt. 28-4-2004 made in M.P.No. 22/2003, Labour Court-II, Hyderabad directing the Petitioner herein to pay to the 1st respondent the entire amount of Rs. 1,15,064-64 Ps. claimed by him towards back wages from the date of suspension till the date of his superannuation on 28-2-2002; and quash the same as being illegal, without jurisdiction and invalid,

Counsel for the Petitioner: MR.V.T.M.PRASAD, STANDING COUNSEL FOR APSRTC

Counsel for the Respondent No.1: MR.K.VASUDEVA REDDY

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following:

COMMON ORDER

Heard Mr.V.T.M.Prasad, learned Standing Counsel appearing on behalf of the petitioners' Corporation in both the Writ Petitions and also Mr.K.Vasudeva Reddy, learned Counsel appearing on behalf of the contesting respondent no.1/Workman.

Since these two Writ Petitions are connected with each other, they are taken up together for disposal.

The only question that falls for consideration in these matters is whether the award of back wages made in the reference would include the wages if any prior to the date of termination.

The few facts which are necessary for disposal of these two Writ Petitions are that the contesting respondent no. 1 was working as a Conductor with the petitioner's corporation and he was appointed on 25-5-1967 and subsequently he was also regularized. While he was conductor of the bus on 9-9-1997, during a check, some irregularities were found and as a result, disciplinary proceedings were initiated which was leading to removal of service as per the orders dated 7-9-1999. After exhausting all the remedies, the 1st respondent raised a dispute under the provisions of the Industrial Disputes Act, 1947 and the same was taken up as I.D.No.191 of 1999 wherein both sides have produced their respective evidence. The 2nd respondent herein/ Labour Court, after considering the material on record allowed the reference by setting aside the removal order dated 7-9-1999 and permitting reinstatement of the petitioner into service with all attendant benefits, continuity of service and with full back wages. As against the said award, the petitioner has filed W.P.No.23978 of 2002 wherein this Court granted interim direction in W.P.M.P.No.30091 of 2002,

dated 3-1-2003 to the effect that the interim stay of the award shall be subject to condition of the petitioner depositing 50% of the back wages awarded and on such deposit, the 1st respondent is entitled to withdraw the same without furnishing any security. Accordingly, the petitioner has deposited an amount of Rs.89,000/- which comes to 50% of the back wages and the 1st respondent has withdrawn the same. However complaining that the petitioner's Corporation has not deposited the back wages fully, the 1st respondent has filed an application before the Labour Court on

22-1-2003 and the same was also allowed as per the orders dated 28-4-2004 awarding a sum of Rs.1,15,064-64 paise. As against the same, the petitioner once again filed another Petition in W.P.No.13330 of 2004 and obtained interim suspension of the same as per the orders in W.P.M.P.No.17050 of 2004, dated 9-8-2004.

On appearance of the respondent, both the matters are taken up together for final disposal.

Mr.V.T.M.Prasad, learned Standing Counsel appearing on behalf of the petitioners submit that in view of the fact that the back wages or any wages does not mean any amount which the Corporation has to pay prior to the date of termination, but it should be only the wages from the date of termination till the date of payment and the said amount was rightly calculated and 50% of the amount was already deposited, whereas these submissions are sought to be repelled on behalf of the 1st respondent.

Considering the submissions made and on perusal of the record, it is seen that there is no dispute that the 1st respondent is working as Conductor with the petitioners corporation and he was removed from service on 7-9-1999 for the irregularities committed by him and as against the same, a dispute was raised and ultimately after contest, the same was allowed for reinstatement with full back wages and attendant benefits and continuity of service and especially with the wages with which the employee is entitled as per their own regulation.

Admittedly, in this case the 1st respondent/workman has not been paid certain amounts during the period of suspension which is sought to be paid along with all benefits subsequent to period of removal. Therefore, in all it comes to

Rs.1,00,000/- as claimed in M.P.No.22 of 2003 which was rightly allowed by the Labour Court . The submission that the wages should especially include from the date of termination, cannot be accepted for the simple reason that an employee should take every emolument to which he is entitled to prior to or after the date of removal including the wages have not been paid during the period of suspension.

In the circumstances, I do not find any merits in the Writ Petitions and accordingly, the Writ Petitions are dismissed. No costs.

20-12-2004.

Hsd

Asst. Registrar

To

1. The Presiding Officer
Labour Court-II, Hyderabad,
- 2.The Managing Director, APSRTC, Mushirabad, Hyderabad.
3. The Deputy Chief Traffic Manager, APSRTC, Nizamabad.
- 4.The Depot Manager, APSRTC, Bodhan depot, Nizamabad District.
5. 2 C.Cs to G.P. for Labour, High Court of A.P. High Court Buildings,
Hyderabad (OUT)
6. 2 C.D. copies.